

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

---

ANDREA L. DAMMANN and  
MAY K. YANG, individually and  
on behalf of classes of similarly  
situated individuals,

Plaintiffs,

v.

**ORDER**

Civil File No. 15-3149 (MJD/FLN)

PROGRESSIVE DIRECT INSURANCE  
COMPANY,

Defendant.

---

Charles D. Slane, Terry Slane & Ruohonen, PLLC, and Eric N. Linsk and Robert K. Shelquist, Lockridge Grindal Nauen PLLP, Counsel for Plaintiffs.

Richard D. Snyder, Todd A. Wind, and Anupama D. Sreekanth, Fredrikson & Byron, PA, Counsel for Defendant.

---

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated November 20, 2015. Plaintiffs filed objections to the Report and Recommendation.

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court adopts the Report and Recommendation of United States Magistrate Judge Noel dated November 20, 2015. Defendant has “establish[ed] the amount in controversy by a preponderance of the evidence” by calculating the premiums on relevant the policies during the six-year period, which have been put at issue through Plaintiffs’ declaratory judgment request. See Raskas v. Johnson & Johnson, 719 F.3d 884, 887 (8th Cir. 2013). “Once the proponent of federal jurisdiction has explained plausibly how the stakes exceed \$5 million, as Defendant[] ha[s] in this case, then the case belongs in federal court unless it is legally impossible for the plaintiff to recover that much. Even if it is highly improbable that the Plaintiffs will recover the amounts Defendant[] ha[s] put into controversy, this does not meet the legally impossible standard.” Id. at 888 (citations omitted). The Court agrees with the Report and Recommendation that Defendant has met its burden by a preponderance of the evidence, and it is not a legal impossibility for the amount in controversy to exceed \$5 million.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Franklin L. Noel dated November 20, 2015 [Docket No. 23].
2. Plaintiffs' Motion to Remand [Docket No. 7] is **DENIED**.

Dated: January 12, 2016

s/ Michael J. Davis

Michael J. Davis

United States District Court